

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
The Use of N11 Codes and Other Abbreviated	)	CC. Docket No. 92-105
Dialing Arrangements	)	

**REPLY COMMENTS OF MOUNTAIN AIRS, INC.,  
dba THE WEST VIRGINIA 211 COLLABORATIVE**

Pursuant to the Commission's October 8, 2004 Public Notice,<sup>1</sup> Mountain Airs, Inc., dba The West Virginia 211 Collaborative ("WV211 Collaborative")<sup>2</sup> hereby files its reply comments.

The purpose of the WV211 Collaborative's reply comments is two-fold: first, to update the Commission regarding the manner in which West Virginia has implemented a statewide 211 system and second, to briefly address the comments filed in response to the October 8, 2004 Public Notice suggesting technical difficulties associated with wireless carriers' compliance with the Commission's earlier order designating 211<sup>3</sup> as an abbreviated dialing code for accessing community information and referral ("I&R") services.

**I. History of Proceedings to Implement 211 in West Virginia.**

In the wake of the Commission's *211 3d R&O*, the West Virginia State Legislature enacted House Concurrent Resolution 18 ("HCR 18"), directing the WVPSC to designate 211 as the N11 code for access to community I&R services. In addition, HCR 18

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<sup>1</sup> See *I/M/O The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Public Notice, DA 04-3219 (rel. Oct. 8, 2004).

<sup>2</sup> Mountain Airs, Inc. is a corporation formed pursuant to I.R.C. Section 501(c)(3). The West Virginia 211 Collaborative is a body formed by Mountain Airs, Inc. to serve as the governing body overseeing the establishment and operation of the statewide 211 provider in West Virginia. The undersigned counsel is an employee of the Consumer Advocate Division ("CAD") of the West Virginia Public Service Commission ("WVPSC"), serves on the West Virginia 211 Collaborative in a volunteer capacity, and represented CAD in proceedings related to the issuance of rules by the WVPSC establishing a statewide 211 system for the State of West Virginia. See "Commission Order," *I/M/O a Proceeding for the Adoption of Rules Implementing and Governing the West Virginia 211 Information and Referral System*, General Order No. 187.25 (Dec. 11, 2003).

<sup>3</sup> *I/M/O the Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Third Report and Order, CC Docket No. 92-105, FCC 00-256 (rel. July 31, 2000) ("*211 3d R&O*").

directed the WVPSC to study the feasibility of implementing 211 statewide, in partnership with the state 211 collaborative, local telephone companies and 911 public service answering points (“PSAPs”), and to present a report to the Legislature by July 1, 2002, regarding the WVPSC’s progress.

On May 23, 2001, the WVPSC’s staff filed a petition requesting the initiation of a general investigation regarding implementing HCR 18's directives. This petition was docketed as Case No. 01-0689-T-GI. At its staff’s recommendation, the WVPSC established a task force composed of representatives from local exchange telecommunications carriers (“LECs”), the WV211 Collaborative, wireless carriers, PSAPs, WVPSC staff and CAD.<sup>4</sup> On January 31, 2002, the task force filed its final report with the WVPSC, which issued a further order on March 6, 2002, directing the task force to reconvene and file a further report regarding certain issues. The task force filed its further report with the WVPSC on May 15, 2002, which was ultimately approved and forwarded to the State Legislature by the WVPSC on June 26, 2002.

The State Legislature, in turn, passed Senate Bill No. 436 (“SB 436”),<sup>5</sup> directing the WVPSC to implement 211 in accordance with the recommendations of the task force established in Case No. 01-0689-T-GI, including the promulgation of legislative rules for that purpose. In response to SB 436, the WVPSC established another task force – including most of the same members that served on the task force in Case No. 01-0689-T-GI – to draft rules for the WVPSC’s consideration. On September 23, 2003, this task force filed its report and consensus rules recommended by the task force’s majority for

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<sup>4</sup> “Commission Order,” *General Investigation into the Feasibility of Implementing 211 as the Three Digit Telephone Access Number for Community Information and Referral Services Throughout the State of West Virginia*, Case No. 01-0689-T-GI (June 19, 2001).

<sup>5</sup> Codified at *W. Va. Code*, ch. 24, art. 8.

promulgation by the WVPSC, together with appendices containing dissenting comments and the majority's response to those dissenting comments.<sup>6</sup> A public hearing was held on November 6, 2003, after which the majority and the wireless carriers settled their differences by agreeing to adopt the wireless carriers' alternate proposed rules that would allow, but not require, wireless carriers to provide their subscribers with free access to statewide 211. The WVPSC rejected the remainder of dissenting comments and alternate proposed rules, and adopted the majority proposed rules, as amended in accordance with the wireless carriers' proposals, to become effective on December 31, 2003.<sup>7</sup> The rules adopted by the WVPSC were subsequently approved by the State Legislature.

## **II. Implementation of 211 in West Virginia.**

Under the rules adopted by the WVPSC,<sup>8</sup> and approved by the State Legislature, 211 calls are directed to a single call center that provides callers with centralized I&R services, including links to regional I&R services around the State. This system utilizes a single, toll-free 8XX number, with all telecommunications carriers translating and routing 211 calls to the 8XX number assigned to the call center.<sup>9</sup> The operator of the call center is selected by the WV211 Collaborative, pursuant to public notice and competitive bidding procedures,<sup>10</sup> the call center's operation is monitored and overseen by the

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<sup>6</sup> Dissenting comments were submitted by four wireless carriers (AT&T Wireless Services, Inc.; ACC of West Virginia, Inc.; Cingular Wireless LLC; and Verizon Wireless), and by A.V. Lauttamus Communications, Inc. The wireless carriers' dissenting comments focused primarily on the consensus rule that would have made calls to 211 free of charge, including assessment against airtime, on the grounds this constituted preempted "rate" regulation under 47 U.S.C. § 332(c)(3)(A).

<sup>7</sup> See "Commission Order," *I/M/O a Proceeding for the Adoption of Rules Implementing and Governing the West Virginia 211 Information and Referral System*, General Order No. 187.25 (Dec. 11, 2003).

<sup>8</sup> W.Va. C.S.R. Title 150, Series 29.

<sup>9</sup> W.Va. C.S.R. § 150-29-2.6.

<sup>10</sup> W.Va. C.S.R. §§ 150-29-3 through -4.

WV211 Collaborative and procedures are provided for the removal of the call center's operator for cause.<sup>11</sup> The WVPSC retains discretion to review the operations of the statewide 211 call center and to fix reasonable acts, practices, services or regulations relating to the provision of 211 statewide or the operations of the call center's provider.<sup>12</sup> Information related to the selection, removal, and complaints received regarding operation of the 211 call center is required to be provided to the WVPSC.<sup>13</sup> Finally, the rules establishing statewide 211 in West Virginia provide for the creation and maintenance of a computer database, populated in part through the efforts of community-based service organizations, maintained and updated by the 211 provider but which remains the exclusive intellectual property of the WV211 Collaborative.<sup>14</sup>

In accordance with the requirements of the WVPSC's 211 rules, the WV211 Collaborative solicited bids to operate the statewide 211 call center in April 2004. In July 2004, the WV211 Collaborative selected A.V. Luttamus, Inc. to act as the statewide 211 provider. A.V. Luttamus began accepting 211 calls on November 1, 2004.

### **III. Response to Comments.**

The WV211 Collaborative, and all the other parties involved in the process of establishing 211 in West Virginia, are – with some justification – proud of their efforts to bring 211 into being in West Virginia. The WV211 Collaborative urges the Commission to adhere to the decisions set forth in its 211 3d R&O.

With regard to the comments filed by several wireless carriers and their industry representative, the WV211 Collaborative has only a few observations. First, with regard

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<sup>11</sup> W.Va. C.S.R. §§ 150-29-3.1 & 4.2.b.

<sup>12</sup> W. Va. C.S.R. § 150-29-6.

<sup>13</sup> W. Va. C.S.R. §§ 150-29-4.2.d, 4.3, 4.5 & 8.1.b.

<sup>14</sup> W. Va. C.S.R. §§ 150-29-10.1 through 5.

to technical difficulties associated with the routing of 211 calls or requests to provide 211 routing from different bodies, the system adopted in West Virginia should not experience any of those problems. Since a single, statewide 211 call center is established, there is only one entity to which 211 calls must be routed.

Second, with regard to the mobile nature of wireless communications and the broad geographic area within which wireless customer may originate calls, the WV211 Collaborative does not believe this should be problematic – at least in West Virginia. Certainly none of the wireless carriers that participated in the task force proceedings that led to the establishment of 211 in the state identified any technical problems associated with transmitting their customers' 211 calls to the statewide 211 call center. Moreover, given the population of persons likely to be seeking 211 services, the WV211 Collaborative does not anticipate that many callers for such community-based social services will be traveling far outside the State.

Finally, to the extent some wireless carriers raise concerns regarding administrative procedures and rulemaking, the WV211 Collaborative believes that there was more than adequate notice and due process associated with the establishment and implementation of 211 in West Virginia. Moreover, as the WV211 Collaborative understands it, the Commission did not direct carriers to begin providing 211 in any particular location in the *211 3d R&O*. Rather, the decision whether to implement 211 in the states was left to state or local bodies. The WV211 Collaborative assumes that these bodies, like the West Virginia Legislature and WVPSC, provided notice and opportunity to comment regarding proposals for the actual implementation of 211.

For all the foregoing reasons, the Commission should enter an affirming its decision regarding the 211 dialing code in the *211 3d R&O*.

Respectfully submitted,

MOUNTAIN AIRS, INC., dba  
THE WEST VIRGINIA 211 COLLABORATIVE

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